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1 IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

2

3 W.A. DREW EDMONDSON, in his)

capacity as ATTORNEY GENERAL)

4 OF THE STATE OF OKLAHOMA and)

OKLAHOMA SECRETARY OF THE)

5 ENVIRONMENT C. MILES TOLBERT,)

in his capacity as the)

6 TRUSTEE FOR NATURAL RESOURCES)

FOR THE STATE OF OKLAHOMA)

7)

Plaintiffs,)

8)

vs.) 4:05-CV-00329-TCK-SAJ

9)

TYSON FOODS, INC., et al.,)

10)

Defendants.)

11)

12

13 VIDEOTAPED DEPOSITION OF RAY WEAR

14 Taken at the law offices of Mitchell, Williams,

15 Selig, Gates & Wooyard, 5414 Pinnacle Point Drive, Suite

16 500, Rogers, Arkansas 72758, on July 26, 2007, at 9:44

17 a.m.

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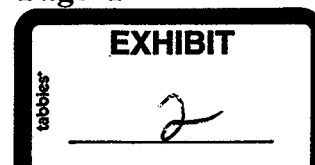
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Wear, Ray 7/26/2007 - 30(b)(6)

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1 Q. Does Peterson Farms own any houses in which its
2 chickens are maintained or raised?

3 A. Yeah. They -- it's -- yes, they do.

4 Q. What kinds of houses do they own?

5 A. Breeder houses.

6 Q. Okay. Do they own any broiler houses?

7 A. No.

8 Q. Did they at one time, Peterson Farms, Inc., own
9 broiler houses?

10 A. Not to my knowledge, no.

11 Q. Even back before Evans & Evans came into the
12 picture?

13 A. No.

14 Q. Okay. So Peterson Farms, in its broiler operation,
15 has always contracted with other persons to grow its
16 broilers? Either would sell them to them and buy them
17 back or actually contract with the growers, independent
18 growers, to take care of their chickens until they were
19 ready for processing?

20 A. Yes.

21 Q. Are pullets houses separate houses from hens?

22 A. Yes.

23 Q. Does Peterson Farms, Inc. own pullet houses?

24 A. For the breeder operation, yes.

25 Q. Does Peterson Farms, Inc. own any of these kinds of

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1 houses within the -- the Illinois River Watershed?

2 A. No.

3 Q. So all of the breeder houses and the pullet houses

4 or the hen houses and the pullet houses are outside the

5 Illinois River Watershed?

6 A. Yes.

7 Q. Now, when I say that, I want to be sure we're

8 communicating. Not just the Oklahoma part of the Illinois

9 River Watershed, but that part of that watershed which

10 extends substantially into the State of Arkansas. So

11 where --

12 A. (Witness nods head.)

13 Q. -- are the --

14 MR. McDANIEL: Is that a yes or no?

15 Q. (Mr. Riggs continued.) Yeah. You need to answer

16 audibly --

17 A. Okay.

18 Q. -- for the purpose of the court reporter --

19 A. Yes. Yes. It's not -- not in the Illinois

20 Watershed.

21 Q. Okay. Where are the hen houses, breeder houses,

22 pullet houses, which are owned by Peterson Farms, Inc.?

23 A. Located around Decatur, Arkansas.

24 Q. Basically north of the Illinois River Watershed?

25 A. Yes.

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1 MR. RIGGS: Yeah. Some of these areas

2 overlap, obviously, so that's --

3 MR. McDANIEL: So --

4 MR. RIGGS: Just let me know if that's not

5 your area.

6 MR. McDANIEL: Yeah.

7 MR. RIGGS: If he can do it, that's fine.

8 Q. (Mr. Riggs continued.) I might be about to get out

9 of your area. Yeah. Just one moment. I want to move on

10 to another area now, away from this organizational

11 structure or this Peterson Farms relationship with other

12 companies, that sort of thing, to talk about the

13 relationship with the people with whom you contract,

14 Peterson Farms, Inc.

15 I first would like to ask you if you -- possibly,

16 this is outside the area you're prepared to talk to me

17 about, what the term integrator means.

18 A. An integrator is where we own the chicken from the

19 inception of the egg through slaughter.

20 Q. Okay. So that's what it means for a company such as

21 yours to be fully integrated?

22 A. That's the way I understand it, yes.

23 Q. Is Peterson Farms a fully integrated poultry

24 company?

25 MR. McDANIEL: Object to the form.

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1 Q. So those two boards are comprised of exactly the
2 same people?

3 A. Yes.

4 Q. And they have the same chief executive officer.

5 A. Yes.

6 Q. When Peterson Farms, Inc. contracted with growers,
7 did it impose certain requirements on the growers with
8 respect to the size and design of the houses the chickens
9 owned by Peterson were to be raised in?

10 MR. McDANIEL: Object to the form.

11 THE WITNESS: That would really be Kirk's
12 area, would it not?

13 MR. McDANIEL: If you're asking as a matter
14 of contract and you can answer the question, go ahead.

15 A. On contract --

16 Q. (Mr. Riggs continued.) It could be yours or his,
17 but tell me what you know, if you will.

18 A. We do not require a certain -- a certain size house,
19 no.

20 Q. But you would not contract with a prospective grower
21 if that grower had a house that was not to your
22 expectations, with respect to the design and size.

23 Correct?

24 A. Yes, we would.

25 Q. Well, there's a limit to how small a house you would

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1 want to contract.

2 A. Within limits, yes.

3 Q. All right. Can you tell me in general what your

4 expectations are that -- and I'm -- I'm speaking of

5 Peterson Farms, Inc. when it had contracted growers, what

6 your expectations were with respect to the size and design

7 of grower houses?

8 A. At that time, I believe it was a 40 by 400 foot

9 house.

10 Q. Did Peterson, when it contracted with the growers to

11 raise broilers, determine the number of birds that would

12 be raised in -- in each house?

13 A. Yes.

14 Q. Did it determine the kind of chickens the grower was

15 provided?

16 A. Yes.

17 Q. Did it determine the age the chickens were at the

18 time they were delivered to the grower?

19 A. Yes.

20 Q. And it decided when the chicks would actually be

21 delivered to the grower with each flock. Correct?

22 A. Yes.

23 Q. Did Peterson, when it contracted with the grower to

24 raise broilers, have requirements with respect to the

25 types of feeders and waterers the grower would use?

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1 A. No.

2 Q. No requirements at all about --

3 A. We would make recommendations.

4 Q. So you had expectations about the -- the -- would

5 that be a fair statement, the -- the kind of waterers and

6 feeders the grower would use?

7 MR. McDANIEL: Object to the form.

8 A. I would say we would make recommendations as to the

9 type, yes.

10 Q. (Mr. Riggs continued.) If the grower had a waterer

11 or a feeder operation or setup which you clearly knew

12 wouldn't be sufficient, would you contract with that

13 person to grow your chickens?

14 A. I really can't answer that. I --

15 Q. Did Peterson have certain requirements with respect

16 to the kind of feed the growers would utilize?

17 A. Yes.

18 Q. Did the grower have to feed the chickens feed that

19 was provided to the grower by Peterson?

20 A. Yes.

21 Q. Did Peterson, when it contracted with growers to

22 raise broilers, determine what all of the ingredients or

23 constituents of the feed would be?

24 A. Yes.

25 Q. So if a grower under contract to Peterson Farms,

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1 Did Peterson have requirements for how its dead
2 chickens were to be disposed of when it contracted with
3 growers?

4 A. Yes.

5 Q. What were those requirements?

6 A. To abide by all applicable state laws.

7 Q. All right. How did Peterson know whether or not its
8 requirements were being met with respect to disposal of --
9 of dead chickens?

10 A. We do not police our growers.

11 Q. Okay. So you didn't have any way of knowing whether
12 they were obeying that part of your contract or not?

13 MR. McDANIEL: Object to the form.

14 A. Not to my knowledge.

15 Q. (Mr. Riggs continued.) What is a service
16 technician?

17 A. Any person employed that advises a grower on care of
18 the chickens.

19 Q. How often was a service technician expected to be on
20 the property and in the houses of the contract grower?

21 MR. McDANIEL: Just -- just a second. Mr.
22 Houtchens is really the person to direct these --

23 MR RIGGS: Okay.

24 MR. McDANIEL: -- operational questions to.

25 MR. RIGGS: That's fine. I understand.

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1 second.

2 (Wherein, an off-the-record discussion was held.)

3 Q. (Mr. Riggs continued.) Who owns the poultry waste

4 which accumulates in the contract grower's grow house?

5 MR. McDANIEL: Object to the form.

6 A. Talking about poultry litter?

7 Q. (Mr. Riggs continued.) Well, we'll talk on that

8 later but I'll let you use your term for now, poultry

9 litter.

10 A. The grower owns it.

11 Q. From the time Peterson started using contract

12 growers to produce its chickens, has the grower always

13 owned the litter produced in the growing of the chickens?

14 A. As far as I know, yes.

15 Q. Has Peterson ever imposed any restrictions in its

16 contracts regarding how poultry litter is to be managed

17 and disposed of, other than those we've just talked about?

18 A. It's required a Litter Management Plan for several

19 years.

20 Q. Doesn't Peterson now require a stacking shed for

21 each grower?

22 A. I believe that's correct.

23 Q. Wasn't there a communication that went out after the

24 contracts were signed telling them they must now have a

25 stacking shed?